

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed January 29, 2007. Upon entry of the amendments in this response, claims 1 – 38 and 58 – 58 remain pending. In particular, Applicants amend claims 1 and 48. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Rejections Under 35 U.S.C. §112**

The Office Action indicates that claims 15 – 20 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicants respectfully traverse this rejection. More specifically, the present application includes description related to determining forecasted network usage (see, as a nonlimiting example, FIG. 7, elements 728, 740, paragraphs [0073] – [0089]). Applicants respectfully submit that at least these portions of the present application disclose “determining forecasted network usage” in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time of filing. For at least this reason, Applicants submit that claims 15 – 20 are allowable over 35 U.S.C. §112(1).

The Office Action additionally indicates that claims 14, 24, and 27 – 29 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants amend claims 14, 24, and 27 – 29, as indicated above, and submit that these amendments place claims 14, 24, and 27 – 29 in condition for allowance.

## II. Rejections Under 35 U.S.C. §103

### A. Claim 1 is Allowable Over *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,542,593 (“*Bowman-Amuah*”) in view of U.S. Patent Number 5,881,231 (“*Takagi*”), and U.S. Patent Number 6,253,203 (“*O’Flaherty*”) and further in view of U.S. Patent Number 6,272,110 (“*Tunnickliffe*”). Applicants respectfully traverse this rejection for at least the reason that *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe*, fails to disclose, teach, or suggest all of the elements of claim 1. More specifically, claim 1 recites:

A method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of:

- (a) ***determining whether each user has been assigned a forecast function;***
- (b) determining forecasted network access usage by each user during a future time interval;
- (c) comparing said ***forecasted*** network access usage ***by each user*** with a predetermined threshold value;
- (d) in response to comparing, determining at least one candidate for modification of an SLA;
- (e) filtering at least one candidate against a list of candidates for which a solicitation is not to be made; and
- (f) soliciting at least one filtered candidate to modify an SLA related to that candidate. ***(emphasis added)***

Applicants respectfully submit that claim 1, as amended, is allowable over the cited art for at least the reason that *Bowman-Amuah*, *Takagi*, *O’Flaherty*, and *Tunnickliffe*, individually or in combination, fail to disclose, teach, or suggest a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... ***determining whether each user has been assigned a***

*forecast function* [and] comparing said *forecasted* network access usage *by each user* with a predetermined threshold value” as recited in claim 1, as amended. More specifically, *Bowman-Amuah* appears to disclose a “Proactive Threshold Manager [that] uses the information provided by the Information Services Manager to determine a current level of service and compare the current level of services with the minimum level of service” (column 52, line 49). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user has been assigned a forecast function* [and] comparing said *forecasted* network access usage *by each user* with a predetermined threshold value” as recited in claim 1, as amended. For at least this reason, claim 1, as amended, is allowable over the cited art.

Applicants additionally submit that *Takagi* fails to overcome the deficiencies of *Bowman-Amuah*. More specifically, *Takagi* appears to disclose an “information processing system in which the necessary information can be transferred via a network by the time this information becomes actually necessary” (column 3, line 26). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user has been assigned a forecast function* [and] comparing said *forecasted* network access usage *by each user* with a predetermined threshold value” as recited in claim 1, as amended. For at least this additional reason, claim 1, as amended, is allowable over the cited art.

Applicants additionally submit that *O’Flaherty* fails to overcome the deficiencies of *Bowman-Amuah* and *Takagi*. More specifically, *O’Flaherty* appears to disclose “extending a

database table comprising a plurality of data columns to include at least one data control column for storing data control information reflecting at least one consumer privacy parameter” (column 3, line 1). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user has been assigned a forecast function* [and] comparing said *forecasted* network access usage *by each user* with a predetermined threshold value” as recited in claim 1, as amended. For at least this additional reason, claim 1, as amended, is allowable over the cited art.

Applicants additionally submit that *Tunnickliffe* fails to overcome the deficiencies of *Bowman-Amuah*, *Takagi*, and *O’Flaherty*. More specifically, *Tunnickliffe* appears to disclose a “communications network [that] comprises at least two agents, each agent comprising a computer system provided with at least one communication link to another agent, said computer system being arranged to accept the results of the comparison” (column 2, line 23). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user has been assigned a forecast function* [and] comparing said *forecasted* network access usage *by each user* with a predetermined threshold value” as recited in claim 1, as amended. For at least this additional reason, claim 1, as amended, is allowable over the cited art.

**B. Claim 48 is Allowable Over *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe***

The Office Action indicates that claim 48 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Bowman-Amuah* in view of *Takagi*, and *O’Flaherty* and further in view of

*Tunnickliffe*. Applicants respectfully traverse this rejection for at least the reason that *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe*, fails to disclose, teach, or suggest all of the elements of claim 48. More specifically, claim 48 recites:

A method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of:

***determining whether each user is assigned a forecast function;***

in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user;

determining ***forecasted*** network access usage ***by each user*** for respective predetermined future time intervals;

identifying a period of high forecasted network access usage of a user based on said determining;

determining, from said determining forecasted network access usage, at least one candidate for modification of an SLA;

filtering at least one candidate against a list of candidates for which a solicitation is not to be made; and

soliciting at least one filtered candidate to modify an SLA associated with that filtered candidate to guarantee a minimum level of network access during an anticipated future recurrent period of high network access usage. (***emphasis added***)

Applicants respectfully submit that claim 48, as amended, is allowable over the cited art for at least the reason that *Bowman-Amuah*, *Takagi*, *O’Flaherty*, and *Tunnickliffe*, individually or in combination, fail to disclose, teach, or suggest a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... ***determining whether each user is assigned a forecast function***... in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user... [and] c determining ***forecasted*** network access usage ***by each user*** for respective predetermined future time intervals” as recited in claim 48, as amended. More specifically, *Bowman-Amuah* appears to disclose a “Proactive Threshold Manager [that] uses the information provided by the

Information Services Manager to determine a current level of service and compare the current level of services with the minimum level of service” (column 52, line 49). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user is assigned a forecast function*... in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user... [and] c determining *forecasted* network access usage *by each user* for respective predetermined future time intervals” as recited in claim 48, as amended. For at least this reason, claim 48, as amended, is allowable over the cited art.

Applicants additionally submit that *Takagi* fails to overcome the deficiencies of *Bowman-Amuah*. More specifically, *Takagi* appears to disclose an “information processing system in which the necessary information can be transferred via a network by the time this information becomes actually necessary” (column 3, line 26). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... *determining whether each user is assigned a forecast function*... in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user... [and] c determining *forecasted* network access usage *by each user* for respective predetermined future time intervals” as recited in claim 48, as amended. as recited in claim 48, as amended. For at least this additional reason, claim 48, as amended, is allowable over the cited art.

Applicants additionally submit that *O’Flaherty* fails to overcome the deficiencies of *Bowman-Amuah* and *Takagi*. More specifically, *O’Flaherty* appears to disclose “extending a database table comprising a plurality of data columns to include at least one data control column for storing data control information reflecting at least one consumer privacy parameter” (column 3, line 1). Applicants respectfully submit that this is different than a “method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... **determining whether each user is assigned a forecast function**... in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user... [and] c determining **forecasted** network access usage **by each user** for respective predetermined future time intervals” as recited in claim 48, as amended. For at least this additional reason, claim 48, as amended, is allowable over the cited art.

Applicants additionally submit that *Tunncliffe* fails to overcome the deficiencies of *Bowman-Amuah*, *Takagi*, and *O’Flaherty*. More specifically, *Tunncliffe* appears to disclose a “communications network [that] comprises at least two agents, each agent comprising a computer system provided with at least one communication link to another agent, said computer system being arranged to accept the results of the comparison” (column 2, line 23). Applicants respectfully submit that this is different than a ““method of providing network access across a shared communications medium between competing users pursuant to service level agreements (SLAs) of the users, comprising the steps of... **determining whether each user is assigned a forecast function**... in response to determining that at least one user is not assigned a forecast function, assigning a forecast function to at least one user... [and] c determining **forecasted** network access usage **by each user** for respective predetermined future time

intervals” as recited in claim 48, as amended. For at least this additional reason, claim 48, as amended, is allowable over the cited art.

**C. Claims 2 – 8 and 49 – 58 are Allowable Over *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe***

The Office Action indicates that claims 2 – 8 and 49 – 58 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,542,593 (“*Bowman-Amuah*”) in view of U.S. Patent Number 5,881,231 (“*Takagi*”), and U.S. Patent Number 6,253,203 (“*O’Flaherty*”) and further in view of U.S. Patent Number 6,272,110 (“*Tunnickliffe*”). Applicants respectfully traverse this rejection for at least the reason that *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* and further in view of *Tunnickliffe* fails to disclose, teach, or suggest all of the elements of claims 2 – 8 and 49 – 58. More specifically, dependent claims 2 – 8 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. Dependent claims 49 – 58 are believed to be allowable for at least the reason that they depend from allowable independent claim 48. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**D. Claims 9 – 10, 12 – 13, and 21 – 23 are Allowable Over *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* further in view of *Tunnickliffe* and further in view of *Williams***

The Office Action indicates that 9 – 10, 12 – 13, and 21 – 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Bowman-Amuah* in view of *Takagi*, and *O’Flaherty*, and *Tunnickliffe*, and further in view of U.S. Patent Number 5,867,764 (“*Williams*”). Applicants respectfully traverse this rejection for at least the reason that *Bowman-Amuah* in view of *Takagi*, and *O’Flaherty*, and *Tunnickliffe*, and further in view of *Williams* fails to disclose, teach, or



suggest all of the elements of claims 9 – 10, 12 – 13, and 21 – 23. More specifically, dependent claims 9 – 10, 12 – 13, and 21 – 23 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

**E. Claims 18 – 19 are Allowable Over *Bowman-Amuah* in view of *Takagi* further in view of *O’Flaherty* further in view of *Tunnicliffe* and further in view of *Natarajan***

The Office Action indicates that 18 – 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Bowman-Amuah* in view of *Takagi*, and *O’Flaherty*, and *Tunnicliffe*, and further in view of U.S. Patent Number 6,577,597 (“*Natarajan*”). Applicants respectfully traverse this rejection for at least the reason that *Bowman-Amuah* in view of *Takagi*, and *O’Flaherty*, and *Tunnicliffe*, and further in view of *Natarajan* fails to disclose, teach, or suggest all of the elements of claims 18 - 19. More specifically, dependent claims 18 – 19 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine, Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and Official Notice, or statements interpreted similarly, should not be considered well-known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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